IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOMS APPEAL NO. 38 OF 2007

The Commissioner of Customs ..Appellant.

V/s.

Eva Maria Mathai ..Respondent.

Mrs.S.V.Bharucha with N.D. Sharma i/b. H.P.Chaturvedi for appellant.

Mr.S.N.Kantawala with V.Kothari i/b. M/s.Apex Law Partners for respondent.

CORAM : DR. S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.

DATED : 28TH FEBRUARY, 2007.

P.C. :-

. Heard learned counsel for the appellant and the respondent. In the above appeal, the appellant is seeking to raise the following question of law:-

> " Whether the Revisional Authority was justified in confirming the order of Commissioner Appeals which reduced the redemption fine and personal penalty in spite of the findings that there was mis-declaration of foreign currency by the respondent ?"

2. The Revisional Authority i.e. the Joint Secretary to the Government of India passed an order dated 29th June, 2006 wherein the Joint Secretary has clearly observed as under:-

> This case involves seizure of foreign currencies at CSI Airport, from the appellant a foreign national, amounting to Rs.1,75,9950 which were not declared. At adjudicating stage Redemption fine was fixed at Rs.10 lakhs and penalty at Rs.2 lakh. During Appeal, the Commissioner (Appeals),

reduced the redemption fine to Rs.1 lakh and penalty to Rs.20,000/- considering the fact that the applicant is a foreign national and the offence is mere technical in nature as import of foreign currencies without limit is allowed as per law, except that only a declaration is required in case the same exceeds US $ 5000. In the Revision Application, the applicant has requested for further reduction in redemption fine and personal penalty on the ground that there is no ceiling on import of foreign currency and hence the offence of non-declaration is purely technical in nature. Commissioner has also preferred a Revision Application on various grounds requesting restoration of the Order-in-Original.

Govt. has considered the submissions made by both the sides but agrees with the findings of the Commissioner (Appeals), in reducing the redemption fine and personal penalty, especially in circumstances of the present case of import of foreign currency in which as per law there is no limit for its legal import. The only requirement is declaration which was not made in the case and for which adequate redemption fine and personal penalty has been imposed in the appellate order which is commensurate with the technical violation of non-declaration.

3. From the above, it is clear that the Joint Secretary has agreed with the view of the Commissioner (Appeals) in reducing the redemption fine to Rs.1 lakh and penalty to Rs.20,000/- considering the fact that the appellant is a foreign national and the offence was merely technical in nature and the import of foreign currency without limit is allowed as per law except that only a declaration is required to be made in case the same exceeds US $ 5000. In view thereof, we do not find any substantial question of law arise in this appeal. Hence appeal is dismissed.

(DR.S.RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)